

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In Re:)
) Bankruptcy Case No. 19-28687
MICHAEL HELMSTETTER,) Chapter 7
) Judge Jacqueline P. Cox
Debtor.)

DEBTOR-APPELLANT'S DESIGNATION OF THE RECORD ON APPEAL
AND
STATEMENT OF ISSUES TO BE PRESENTED

Pursuant to Bankruptcy Rule 8009, Debtor-Appellant Michael S. Helmstetter hereby submits his Designation of the Record on Appeal and Statement of the Issues:

I. Designation of the Record on Appeal

The following are the documents Debtor-Appellant hereby designates to be included in the Record on Appeal.

Filing Date	Doc#	Docket Text
10/09/2019	1	Chapter 7 Voluntary Petition for Individual Fee Amount \$335, Filed by J Kevin Benjamin Esq. on behalf of Michael S. Helmstetter (Attachments: # 1 Signature Pages) (Benjamin, J Kevin) (Entered: 10/09/2019)
10/09/2019	3	Certificate of Credit Counseling Filed by J Kevin Benjamin Esq. on behalf of Michael S. Helmstetter. (Benjamin, J Kevin) (Entered: 10/09/2019)
10/10/2019	8	Notice of Chapter 7 Bankruptcy Case. No Proof of Claim Deadline . (Williams, Daphne) (Entered: 10/10/2019)
10/11/2019	9	Personal Financial Management Course for Debtor. (McDuffie, Christel) (Entered: 10/11/2019)
10/12/2019	10	BNC Certificate of Notice - Meeting of Creditors. (RE: 8 Notice of Chapter 7 Bankruptcy Case). No. of Notices: 92. Notice Date 10/12/2019. (Admin.) (Entered: 10/12/2019)

- 10/21/2019 13 Letter of Appointment. Trustee David R Herzog appointed to the case. Filed by U.S. Trustee Patrick S Layng. (Brief, Adam) (Entered: 10/21/2019)
- 10/22/2019 14 Renotice 341 Meeting . 341(a) meeting to be held on 11/26/2019 at 02:30 PM at 219 South Dearborn, Office of the U.S. Trustee, 8th Floor, Room 800, Chicago, Illinois 60604. (Gutierrez, Evelyn) (Entered: 10/22/2019)
- 10/22/2019 15 Notice of Appearance and Request for Notice Filed by Jamie L Burns on behalf of Western Avenue Nissan, Inc., Kingdom Chevrolet, Richard Ruscitti. (Burns, Jamie) (Entered: 10/22/2019)
- 10/23/2019 16 Appearance Filed by Whitman H. Brisky on behalf of 2401 So. Michigan Building Corporation, County Mayo Corporation. (Brisky, Whitman) (Entered: 10/23/2019)
- 10/23/2019 17 Notice of Motion and Motion to Extend Time to File Schedules or Provide Required Information Filed by Theresa S. Benjamin Esq. on behalf of Michael S. Helmstetter, Western Avenue Nissan, Inc.. Hearing scheduled for 10/30/2019 at 09:30 AM at 219 South Dearborn, Courtroom 680, Chicago, Illinois 60604. (Attachments: # 1 Service List # 2 Proposed Order) (Benjamin, Theresa) Modified on 10/28/2019 PDF Error, Filer to Refile as Amended (Sullivan, Elizabeth). (Entered: 10/23/2019)
- 10/24/2019 18 Notice of Appearance and Request for Notice Filed by Charles Tatelbaum on behalf of Nissan North America, Inc.. (Tatelbaum, Charles) (Entered: 10/24/2019)
- 10/24/2019 19 BNC Certificate of Notice - Renotice Meeting of Creditors (RE: 14 Renotice 341 Meeting). No. of Notices: 103. Notice Date 10/24/2019. (Admin.) (Entered: 10/24/2019)
- 10/29/2019 21 Notice of Motion and Amended Motion to Extend Time to File Schedules or Provide Required Information Filed by Theresa S. Benjamin Esq. on behalf of Michael S. Helmstetter. Hearing scheduled for 10/30/2019 at 09:30 AM at 219 South Dearborn, Courtroom 680, Chicago, Illinois 60604. (Attachments: # 1 Service List) (Benjamin, Theresa)

(Entered: 10/29/2019)

- 10/29/2019 22 Proposed Order - Order on Motion to Extend Time Filed by Theresa S. Benjamin Esq. on behalf of Michael S. Helmstetter (RE: 21 Motion to Extend Time to File Schedules or Provide Required Information). (Benjamin, Theresa) (Entered: 10/29/2019)
- 10/30/2019 24 Order Granting Motion To Extend Time to File Schedules or Provide Required Information (Related Doc # 21). Incomplete Filings due by 11/4/2019. Signed on 10/30/2019. (Batson, Nicole) (Entered: 10/30/2019)
- 11/04/2019 25 Disclosure of Compensation of Attorney for Debtor Filed by J Kevin Benjamin Esq. on behalf of Michael S. Helmstetter. (Benjamin, J Kevin) (Entered: 11/04/2019)
- 11/04/2019 26 Declaration About Individual Debtor's Schedules, Schedules A / B,C,D,E / F,G,H,I,J,with Declaration Filed by J Kevin Benjamin Esq. on behalf of Michael S. Helmstetter (RE: 1 Voluntary Petition (Chapter 7)). (Attachments: # 1 Signature Pages) (Benjamin, J Kevin) (Entered: 11/04/2019)
- 11/04/2019 27 Chapter 7 Statement of Your Current Monthly Income (Form 122A-1) and Statement of Exemption from Presumption of Abuse Form 122A-1Supp The Debtor has Primarily Non-Consumer Debts. Filed by J Kevin Benjamin Esq. on behalf of Michael S. Helmstetter. (Benjamin, J Kevin) (Entered: 11/04/2019)
- 11/05/2019 28 Statement of Financial Affairs for Individual Filed by J Kevin Benjamin Esq. on behalf of Michael S. Helmstetter. (Benjamin, J Kevin) (Entered: 11/05/2019)
- 11/05/2019 29 Statement of Intention for Individuals Filing Under Chapter 7 Filed by J Kevin Benjamin Esq. on behalf of Michael S. Helmstetter. (Attachments: # 1 Signature Pages) (Benjamin, J Kevin) (Entered: 11/05/2019)
- 11/05/2019 30 Verification of Creditors Filed by J Kevin Benjamin Esq. on behalf of Michael S. Helmstetter (RE: 1 Voluntary Petition (Chapter 7), 26 Declaration About Individual Debtor's Schedules, Schedules). (Attachments: # 1 Signature Pages) (Benjamin, J Kevin) (Entered: 11/05/2019)

- 11/05/2019 31 Summary of Assets and Liabilities and Certain Statistical Information for Individual Filed by J Kevin Benjamin Esq. on behalf of Michael S. Helmstetter. (Benjamin, J Kevin) (Entered: 11/05/2019)
- 11/05/2019 32 Attachment(s) Signed Statement of Financial Affairs Page Filed by J Kevin Benjamin Esq. on behalf of Michael S. Helmstetter (RE: 28 Statement of Financial Affairs). (Benjamin, J Kevin) (Entered: 11/05/2019)
- 11/05/2019 33 Attachment(s) Signed Statement of Income Page Filed by J Kevin Benjamin Esq. on behalf of Michael S. Helmstetter (RE: 27 Chapter 7 Statement of Your Current Monthly Income (Form 122A-1)/(122A-1Supp)). (Benjamin, J Kevin) (Entered: 11/05/2019)
- 11/06/2019 34 Adversary case 19-01001. (62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)), (67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)): Complaint by Nissan North America, Inc. against Michael S. Helmstetter. Fee Amount \$350. Status hearing to be held on 12/10/2019 at 11:00 AM at 219 South Dearborn, Courtroom 613, Chicago, Illinois 60604. (Tatelbaum, Charles) (Entered: 11/06/2019)
- 11/26/2019 35 Statement Adjourning Meeting of Creditors. Section 341(a) Meeting Continued on 1/6/2020 at 05:00 PM at 219 South Dearborn, Office of the U.S. Trustee, 8th Floor, Room 800, Chicago, Illinois 60604. (Herzog, David) (Entered: 11/26/2019)
- 11/27/2019 36 Notice of Motion and Application to Employ Gregory K. Stern, Dennis E. Quaid, Monica C. O'Brien and Rachel S. Sandler as Attorney Filed by Gregory K Stern on behalf of David R Herzog. Hearing scheduled for 12/4/2019 at 09:30 AM at 219 South Dearborn, Courtroom 680, Chicago, Illinois 60604. (Attachments: # 1 Affidavit # 2 Proposed Order) (Stern, Gregory) (Entered: 11/27/2019)
- 11/27/2019 37 Notice of Motion and Motion to Extend Time to File Objection to Discharge Under 727 Filed by Gregory K Stern on behalf of David R Herzog. Hearing scheduled for 12/4/2019 at 09:30 AM at 219 South Dearborn, Courtroom 680,

Chicago, Illinois 60604. (Attachments: # 1 Proposed Order)
(Stern, Gregory) (Entered: 11/27/2019)

- 12/04/2019 38 Appearance Filed by James M Yannakopoulos on behalf of Centier Bank. (Yannakopoulos, James) (Entered: 12/04/2019)
- 12/04/2019 39 Order Granting Motion Extending Time to File Objection to Discharge Under 727. (Related Doc # 37). Last day to object to discharge is 6/30/2020. Signed on 12/4/2019. (Batson, Nicole) (Entered: 12/05/2019)
- 12/04/2019 40 Order Granting Application to Employ Gregory K. Stern, and Dennis E. Quaid, and Monica C. O'Brien, and Rachael S. Sandler (Related Doc # 36). Signed on 12/4/2019. (Batson, Nicole) (Entered: 12/05/2019)
- 01/08/2020 41 Change of Address for Michael S. Helmstetter. Address changed to 8500 29th Way, Unit 201, Pinellas Park, Florida 33782. Filed by J Kevin Benjamin Esq. on behalf of Michael S. Helmstetter. (Benjamin, J Kevin) (Entered: 01/08/2020)
- 02/18/2020 42 Appearance Filed by Christopher R Schmidgall on behalf of Kerri Fallon-Helmstetter. (Schmidgall, Christopher) (Entered: 02/18/2020)
- 02/20/2020 43 Notice of Motion and Application to Employ Lois West and Kutchins, Robbins & Diamond, Ltd. as Accountant Filed by Gregory K Stern on behalf of David R Herzog. Hearing scheduled for 3/3/2020 at 09:30 AM at 219 South Dearborn, Courtroom 680, Chicago, Illinois 60604. (Attachments: # 1 Affidavit # 2 Proposed Order) (Stern, Gregory) (Entered: 02/20/2020)
- 03/03/2020 44 Order Granting Application to Employ Kutchins Robbin & Diamond, Ltd. and Lois West (Related Doc # 43). Signed on 3/3/2020. (Miller, Marvin) (Entered: 03/04/2020)
- 03/10/2020 45 Notice of Motion and Motion Rule 2004 Examination of Michael Helmstetter, the Debtor Filed by Gregory K Stern on behalf of David R Herzog. Hearing scheduled for 3/17/2020 at 09:30 AM at 219 South Dearborn, Courtroom 680, Chicago, Illinois 60604. (Attachments: # 1 Exhibit # 2 Proposed Order) (Stern, Gregory) (Entered: 03/10/2020)

- 03/17/2020 46 Order Granting Motion for Rule 2004 (Related Doc # 45). Signed on 3/17/2020. (Batson, Nicole) (Entered: 03/18/2020)
- 04/09/2020 47 Amended Schedules A / B,C,with Declaration Filed by J Kevin Benjamin Esq. on behalf of Michael S. Helmstetter. (Attachments: # 1 Signature Pages) (Benjamin, J Kevin) (Entered: 04/09/2020)
- 04/09/2020 48 Amended Schedules D,E / F,with Declaration Fee Amount \$31 Filed by J Kevin Benjamin Esq. on behalf of Michael S. Helmstetter. (Attachments: # 1 Signature Pages) (Benjamin, J Kevin) (Entered: 04/09/2020)
- 05/13/2020 50 Initial Report of Assets Trustee has found assets in this estate to be administered for the benefit of creditors, or believes there is a likelihood that such assets will be recovered within a reasonable period of time. The Trustee requests that notice be sent to creditors fixing time for filing claims. Filed by Trustee David R Herzog (RE: 14 Renotice 341 Meeting). (Herzog, David) (Entered: 05/13/2020)
- 05/14/2020 51 Notice Fixing Time For Filing . Proofs of Claims due by 8/14/2020. Government Proof of Claim due by 8/14/2020. (Batson, Nicole) (Entered: 05/14/2020)
- 05/16/2020 52 BNC Certificate of Notice - Notice Fixing Time for Filing Claims (RE: 51 Notice Fixing Time For Filing). No. of Notices: 116. Notice Date 05/16/2020. (Admin.) (Entered: 05/16/2020)
- 05/20/2020 53 Notice of Motion and Motion To Substitute Attorney Filed by Richard L Hirsh on behalf of Michael S. Helmstetter. Hearing scheduled for 5/26/2020 at 01:00 PM at 219 South Dearborn, Courtroom 680, Chicago, Illinois 60604. (Attachments: # 1 Attachment Agreed Substitution of Attorneys # 2 Proposed Order) (Hirsh, Richard) (Entered: 05/20/2020)
- 05/26/2020 54 Agreed Order Granting Motion to Substitute Attorney , terminating J Kevin Benjamin, Esq.. (Related Doc # 53). Signed on 5/26/2020. (Batson, Nicole) (Entered: 05/27/2020)

- 06/09/2020 55 Change of Address for Michael S. Helmstetter. Address changed to PO Box 1092 Safety Harbor FL 34695. Filed by Michael S. Helmstetter . (Batson, Nicole) (Entered: 06/09/2020)
- 06/10/2020 56 Notice of Motion and Motion to Extend Time to File Objection to Discharge Under 727 Filed by Gregory K Stern on behalf of David R Herzog. Hearing scheduled for 6/23/2020 at 01:00 PM at 219 South Dearborn, Courtroom 680, Chicago, Illinois 60604. (Attachments: # 1 Proposed Order) (Stern, Gregory) (Entered: 06/10/2020)
- 06/23/2020 57 Order Granting Motion Extending Time to File Objection to Discharge Under 727. (Related Doc # 56). Last day to object to discharge is 9/30/2020. Signed on 6/23/2020. (Batson, Nicole) (Entered: 06/24/2020)
- 08/11/2020 58 Notice of Motion and Motion for Agreed Order Determining Ownership of at Least 33% of Shares of Stock of Kingdom Chevrolet, Inc. Filed by Gregory K Stern on behalf of David R Herzog. Hearing scheduled for 9/1/2020 at 01:00 PM at 219 South Dearborn, Courtroom 680, Chicago, Illinois 60604. (Attachments: # 1 Proposed Order) (Stern, Gregory) (Entered: 08/11/2020)
- 08/11/2020 59 Notice of Motion and Motion to Approve Compromise or Settlement per Rule 9019 with Kingdom Chevrolet, Inc., Western Avenue Nissan, Inc. and Richard Ruscitti, Notice of Motion and Motion to Limit Notice Filed by Gregory K Stern on behalf of David R Herzog. Hearing scheduled for 9/1/2020 at 01:00 PM at 219 South Dearborn, Courtroom 680, Chicago, Illinois 60604. (Attachments: # 1 Exhibit Mutual Release and Settlement Agreement # 2 Proposed Order) (Stern, Gregory) (Entered: 08/11/2020)
- 08/12/2020 60 Individual Estate Property Record and Report Asset Cases (Form 1 and/or Form 2) Filed by Trustee David R Herzog. (Herzog, David) (Entered: 08/12/2020)
- 08/19/2020 61 Exhibit(s) Mutual Release and Settlement Agreement with new/replaced Affidavit of Loss Stock Certificate as Exhibit A Filed by Gregory K Stern on behalf of David R Herzog (RE: 59 Motion to Approve Compromise or Settlement per Rule

9019, Motion to Limit Notice). (Stern, Gregory) (Entered: 08/19/2020)

- 08/25/2020 62 Notice of Objection Filed by Richard L Hirsh on behalf of Michael S. Helmstetter (RE: 59 Motion to Approve Compromise or Settlement per Rule 9019, Motion to Limit Notice). (Hirsh, Richard) (Entered: 08/25/2020)
- 08/26/2020 63 Amended Schedules A / B,C,D,E / F,G,H,with Declaration Fee Amount \$31, Amended Mailing Matrix,with Declaration Fee Amount \$31 Filed by Richard L Hirsh on behalf of Michael S. Helmstetter. (Attachments: # 1 Exhibit Exhibit to Amended Schedule B) (Hirsh, Richard) (Entered: 08/26/2020)
- 08/26/2020 64 Receipt of Schedules(19-28687) [misc,schaj] (31.00) Filing Fee. Receipt number 42492171. Fee Amount \$ 31.00 (Hirsh, Richard) (re:Doc# 63) (U.S. Treasury) (Entered: 08/26/2020)
- 08/26/2020 65 Receipt of List of Creditors/Matrix(19-28687) [misc,listcred] (31.00) Filing Fee. Receipt number 42492171. Fee Amount \$ 31.00 (Hirsh, Richard) (re:Doc# 63) (U.S. Treasury) (Entered: 08/26/2020)
- 08/26/2020 66 Amended Statement of Financial Affairs for Individual Filed by Richard L Hirsh on behalf of Michael S. Helmstetter. (Hirsh, Richard) (Entered: 08/26/2020)
- 08/26/2020 67 Amended Summary of Assets and Liabilities and Certain Statistical Information for Individual Filed by Richard L Hirsh on behalf of Michael S. Helmstetter. (Hirsh, Richard) (Entered: 08/26/2020)
- 08/26/2020 68 Certificate of Service Filed by Richard L Hirsh on behalf of Michael S. Helmstetter (RE: 63 Schedules, List of Creditors/Matrix, 66 Statement of Financial Affairs, 67 Summary of Assets and Liabilities). (Hirsh, Richard) (Entered: 08/26/2020)
- 08/27/2020 69 Proposed Order - Order Approving The Settlement Agreement Between Trustee and Kingdom Chevrolet, Inc., and Richard Ruscitti and Transfer of Assets Pursuant to Section 363(f) Free and Clear of All Liens, Claims and Interests Filed by Gregory K Stern on behalf of David R Herzog (RE: 59 Motion

to Approve Compromise or Settlement per Rule 9019, Motion to Limit Notice). (Stern, Gregory) (Entered: 08/27/2020)

- 08/27/2020 70 Certificate of Service Filed by Richard L Hirsh on behalf of Michael S. Helmstetter (RE: 63 Schedules, List of Creditors/Matrix, 66 Statement of Financial Affairs, 67 Summary of Assets and Liabilities). (Hirsh, Richard) (Entered: 08/27/2020)
- 08/28/2020 71 Proposed Order - Order Approving The Settlement Agreement Between Trustee and Kingdom Chevrolet, Inc., and Richard Ruscitti and Transfer of Assets Pursuant to Section 363(f) Free and Clear of All Liens, Claims and Interests Filed by Gregory K Stern on behalf of David R Herzog (RE: 59 Motion to Approve Compromise or Settlement per Rule 9019, Motion to Limit Notice). (Stern, Gregory) (Entered: 08/28/2020)
- 08/28/2020 72 Appearance Filed by Bryan D King on behalf of Brown, Udell, Pomerantz & Delrahim. (King, Bryan) (Entered: 08/28/2020)
- 08/28/2020 73 Notice of Objection Filed by Bryan D King on behalf of Brown, Udell, Pomerantz & Delrahim (RE: 59 Motion to Approve Compromise or Settlement per Rule 9019, Motion to Limit Notice). (King, Bryan) (Entered: 08/28/2020)
- 08/31/2020 74 Objection to (related document(s): 59 Motion to Approve Compromise or Settlement per Rule 9019, Motion to Limit Notice) Filed by Richard L Hirsh on behalf of Michael S. Helmstetter (Attachments: # 1 Exhibit A (Third-Party Spreadsheet) # 2 Exhibit B (Claim Eight Summary) # 3 Exhibit C (Claim Nine Summary) # 4 Exhibit D (Tancredi CV)) (Hirsh, Richard) (Entered: 08/31/2020)
- 08/31/2020 75 Notice of Filing Filed by Richard L Hirsh on behalf of Michael S. Helmstetter (RE: 74 Objection). (Hirsh, Richard) (Entered: 08/31/2020)
- 09/01/2020 76 Order Granting Motion to Approve Settlement (Related Doc # 59), Granting Motion To Limit Notice (Related Doc # 59). Signed on 9/1/2020. (Batson, Nicole) (Entered: 09/01/2020)
- 09/01/2020 77 Order Granting Motion for Agreed Order (Related Doc # 58). Signed on 9/1/2020. (Batson, Nicole) (Entered: 09/02/2020)

- 09/09/2020 78 Notice of Motion and Motion to Extend Time to File Objection to Discharge Under 727 Filed by Gregory K Stern on behalf of David R Herzog. Hearing scheduled for 9/22/2020 at 01:00 PM at 219 South Dearborn, Courtroom 680, Chicago, Illinois 60604. (Attachments: # 1 Proposed Order) (Stern, Gregory) (Entered: 09/09/2020)
- 09/15/2020 79 Notice of Appeal to District Court. Filed by Richard L Hirsh on behalf of Michael S. Helmstetter. Fee Amount \$298 (RE: 76 Order on Motion to Approve Compromise or Settlement per Rule 9019, Order on Motion To Limit Notice). Appellant Designation due by 09/29/2020. Transmission of Record Due no later than 10/15/2020. (Attachments: # 1 Exhibit A. ORDER APPEALED)(Hirsh, Richard) (Entered: 09/15/2020)
- 09/15/2020 80 Receipt of Notice of Appeal(19-28687) [appeal,ntcapl] (298.00) Filing Fee. Receipt number 42563624. Fee Amount \$ 298.00 (Hirsh, Richard) (re:Doc# 79) (U.S. Treasury) (Entered: 09/15/2020)
- 09/15/2020 81 Notice of Filing Filing Notice of Appeal Filed by Richard L Hirsh on behalf of Michael S. Helmstetter. (Hirsh, Richard) (Entered: 09/15/2020)
- 09/16/2020 82 Attachment(s) CIVIL COVER SHEET Filed by Richard L Hirsh on behalf of Michael S. Helmstetter (RE: 79 Notice of Appeal). (Hirsh, Richard) (Entered: 09/16/2020)
- 09/16/2020 83 Exhibit(s) AMENDED Exhibit A -- Order from Which Appeal is Taken Filed by Richard L Hirsh on behalf of Michael S. Helmstetter (RE: 79 Notice of Appeal). (Hirsh, Richard) (Entered: 09/16/2020)
- 09/16/2020 84 Certificate of Service (RE: 79 Notice of Appeal). (Myers, Melissa) (Entered: 09/16/2020)
- 09/16/2020 85 Transmittal of Notice of Appeal to District Court (RE: 79 Notice of Appeal). (Myers, Melissa) (Entered: 09/16/2020)
- 09/16/2020 86 Notice of Docketing Notice of Appeal, to District Court . Case Number 20 cv 5485 Assigned to Judge: Rebecca R. Pallmeyer (RE: 79 Notice of Appeal). (Myers, Melissa) (Entered: 09/16/2020)

- 09/17/2020 87 Notice Appearance Filed by Daniel S Hefter on behalf of Monte Merz. (Hefter, Daniel) (Entered: 09/17/2020)
- 09/17/2020 88 Appearance for Dennis E. Quaid Filed by Gregory K Stern on behalf of David R Herzog. (Stern, Gregory) (Entered: 09/17/2020)
- 09/22/2020 89 Order Granting Motion Extending Time to File Objection to Discharge Under 727. (Related Doc # 78). Last day to object to discharge is 11/30/2020. Signed on 9/22/2020. (Batson, Nicole) (Entered: 09/23/2020)
- 09/28/2020 90 Disclosure of Compensation of Attorney for Debtor Filed by Richard L Hirsh on behalf of Michael S. Helmstetter. (Hirsh, Richard) (Entered: 09/28/2020)
- 09/29/2020 ____ Transcript of Proceedings of 9/01/2020 requested from D and E Reporting.

II. Statement of Issues on Appeal

- A. Whether the Court's ruling on September 1, 2020, was a sufficient finding of fact and conclusion of law so as to satisfy the requirements of Rule 52 of the Federal Rules of Civil Procedure as made applicable by Bankruptcy Rule 7052.
- B. Whether the Bankruptcy Court abused its discretion in one or more of the following ways:
- I. Failing to apprise itself of all facts necessary for an intelligent and objective opinion of the probabilities of ultimate success should the claim be litigated, and specifically making an informed analysis of the potential for a much greater recovery
- ii. The bankruptcy court failed to form an educated estimate of the complexity, expense and likely duration of the litigation, and other factors relevant to a full and fair assessment of the wisdom of the proposed settlement.
- iii. The bankruptcy court failed to compare the terms of the settlement with the likely rewards of the litigation, despite being presented with a comprehensive summary of the possibility of a recovery much higher than the settlement.
- iv. The settlement approved was unreasonable in view of the potential for a much higher recovery.
- v. The bankruptcy court accorded too much weight to the trustee's analysis of the settlement

and too little weight to the expert business analysis presented by the debtor.

Respectfully submitted,

MICHAEL S. HELMSTETTER

By: /s/ Nicola Tancredi
His Attorney

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